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APR 02 2004

OFFICE OF PETITIONS

In re Application of :
Takeo Niwa :
Application No. 10/670,354 : ON PETITION
Filed: 26 September, 2003 :
Atty's Docket No. 241191US90CONT :

This is a decision on the petition filed on 5 February, 2004, requesting that the above-identified application be accorded a filing date of 26 September, 2003, with Pages 27-29 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 26 September, 2003.

Accordingly, on 22 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Provisional Application, stating that the application had been accorded a filing date of 26 September, 2003, but that Pages 27-29 of the specification (description and claims) appeared to have been omitted.

In response, on 5 February, 2004, the present petition and a copy of pages 27-29 of the specification and drawings were filed. Petitioner argues that Pages 27-29 were filed with the other application papers on 26 September, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 26 September, 2003, and identifies the application by inventor's name, docket number, and invention title, and acknowledges receipt of, *inter alia*, "33 pp. Specification." Petitioners request that the application, including Pages 27-29 of the specification, be accorded a filing date of 26 September, 2003.

A review of the record reveals that no Pages 27-29 of the specification has been located among the application papers received on 26 September, 2003. However, the evidence is convincing that the application papers deposited on 26 September, 2003, included Pages 27-29 of the specification (description and claims), which were subsequently misplaced in the Office. Therefore, the application, including Pages 27-29 of the specification, is entitled to a filing date of 26 September, 2003.

The "Notice" mailed on 22 December, 2003, is withdrawn.

In view of the above, the petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's deposit account, No. 15-0030.

The application will be processed with the copy of Pages 27-29 of the specification supplied on 5 February, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 26 September, 2003, using the application papers filed on that date, and the copy of Pages 27-29 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.



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